

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|-----------------------------|---|---------------------------------|
| DANIELLE ROGERS | : | |
| Plaintiff | : | |
| | : | |
| v. | : | CASE NO. |
| | : | |
| DOLLAR GENERAL STORE #14849 | : | <i>NOTICE OF REMOVAL</i> |
| AND DOLLAR GENERAL | : | |
| CORPORATION | : | |
| Defendants | : | |

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PLEASE TAKE NOTICE that Defendant Dollar General Corporation (hereinafter “Removing Defendant”) hereby removes this action to this Federal Court pursuant to 28 U.S.C. §1332, 1441 and 1446, with full reservation of any and all defenses and objections.

In support of this Notice of Removal, Defendant Dollar General Corporation respectfully submit as follows:

1. On April 20, 2021 Plaintiff filed a Civil Action against only Defendant, “Dollar General,” in the Court of Common Pleas for Delaware County styled as *Danielle Rogers v. Dollar General*, at Docket CV-2021-03714 (hereinafter “State Court Action”).
2. On April 27, 2021, Plaintiff filed an Amended Complaint as against Defendants now identified as “Dollar General Store #14849” and “Dollar General Corporation.” A copy of the Amended Complaint is attached as “Exhibit “A.”
3. Plaintiff’s Amended Complaint alleges negligent conduct against the Defendants for allowing a wet/slippery floor at their retail store located in Upper Darby, PA and/or failing to warn Plaintiff. See Exhibit “A” at paragraph 8-9.

4. Plaintiff's Amended Complaint alleges injuries to include: disc protrusion, disc bulge, radiculopathy, posttraumatic chondromalacia of the patella, headaches, past and future medical expenses, past and future lost wages and lost earning capacity. See Exhibit "A" at paragraphs 12-14.

5. The Complaint does not contain a specific prayer for relief other than allegations the value exceeds the local jurisdictional amount for arbitration of fifty thousand (\$50,000.00) dollars.

6. A review of the allegations of the Complaint provides a good faith basis to determine an amount in controversy in excess of \$75,000. See e.g. Lewis v. FCA US LLC, 2015 U.S. Dist. LEXIS 78214 (E.D.Pa. 2015).

7. Removal is timely pursuant to 28 U.S.C. §1446(b) in that this Petition is being filed within thirty (30) days after Movant received notice of process and that the amount in controversy is satisfied.

8. The Court of Common Pleas for Delaware County is located within the district for the United States District Court for the Eastern District of Pennsylvania.

9. This Court has original jurisdiction over this case pursuant to 28 U.S.C. §1332, making this action removable.

10. Upon information and belief, Plaintiff's domicile is at 1700 Warwick Avenue Folcroft, PA 19032. Thus, Plaintiff is a citizen of the Commonwealth of Pennsylvania in accordance with 28 U.S.C. §1332.

11. The sole proper defendant for the allegations of this Amended Complaint is "Dolgencorp, LLC" which operates the retail store #14849 located at 704 Garrett Road Upper Darby, PA 19082. Dolgencorp, LLC is a single member, manager managed limited liability

company organized under the laws of Kentucky with its principle place of business in Tennessee and, therefore, citizens of those states in accordance with 28 U.S.C. §1332.

12. Dolgencorp, LLC's single member is the currently named defendant "Dollar General Corporation" but with Dollar General Corporation acting as a parent with no operating interest in the retail store.

13. It is "deeply ingrained in our economic and legal systems that a parent corporation ... is not liable for the acts of its subsidiaries." Pearson v. Component Tech. Corp., 247 F.3d 471, 484 (3d Cir.2001)

14. Nevertheless, Defendant Dollar General Corporation is an entity incorporated, and with a principal place of business in Tennessee and, therefore, a citizen of that state in accordance with 28 U.S.C. §1332.

15. The Defendant identified as "Dollar General Store #14849" is a non-jural entity and only serves as a generic name/identifier for a special retail location.

16. A party who asserts that a defendant is improper must sufficiently support their contention in order to properly excuse their failure to participate in the action. See Katz v. Grayling Corp., 2007 WL 4530997, at 2 (E.D.Pa. Dec.20, 2007).

17. Diversity exists as to the proper parties. See 28 U.S.C. §1332(a)(2); *Moore's Federal Practice* § 107.14(2)(c) ("a federal district court has original jurisdiction of all civil actions in which the amount in controversy is satisfied and the action is between citizens of the state and citizens or subjects of a foreign state. This judicial power has often been referred to as alienage jurisdiction.")

18. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings and Orders that have transpired in the State Court Action have been attached at Exhibit "A."

19. In compliance with 28 U.S.C. §1446(d), Moving Defendant have served the Prothonotary for the Pennsylvania Court of Common Pleas for Delaware County with a true and good copy of the original Petition for Removal.

WHEREFORE, the Removing Defendant hereby gives notice that the above action, now pending against them in the Court of Common Pleas for Delaware County, is removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

PISANO LAW FIRM

By:



Matthew T. Pisano, Esquire
Attorneys for Defendant

Dated: 4/30/2021